HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

And
HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

W.P.NO.7754 OF 2006

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Between:

Rajeev Health and Educational Society,

a Society registered under Societies Registration Act,

rep., by its Secretary, Mr. A. Venkat Rao,

Pendurthi, Visakhapatnam District and another

..... Petitioners

AND

Government of Andhra Pradesh, rep., by its

Chief Secretary, Secretariat, Hyderabad and

four others.

.....Respondents

::ORDER::

Counsel for the Petitioners : Sri S.S. Prasad, Senior Advocate
assisted by Kum C. Sindhu
Kumari
Counsel for Respondent No.1 : Government Pleader for
Municipal Administration and
Urban Development Authority
Counsel for Respondent Nos.2 : Smt. C. Jayasree Sarathi
Counsel for Respondent Nos.3 to 5 : Sri N. Ranga Reddy

Dated 20/4/2006

Per Sri G.S.Singhvi, CJ

Sri A.Venkat Rao claiming himself to be the Secretary of Rajeev Health and Educational Society, Visakhapatnam, has filed this petition for quashing Clause VII (vi) of the Model Code of Conduct framed by the Election Commission of India.

We have heard learned counsel for the petitioners and perused the record. In the affidavit filed by him, Sri Venkat Rao has referred to letters dated 12.1.2006 and 28.2.2006 issued by the Election Commission of India for enforcing Model Code of Conduct. In particular, he has challenged Clause VII (vi) of the Model Code of Conduct by contending that enforcement of the said clause has resulted in grave adverse impact on the development activities undertaken by the State in the entire district of Visakhapatnam though such activities do not have any nexus with the process of election held in a particular constituency. In order to establish the petitioners credential as bona fide public-spirited persons, the deponent has given the details of the activities undertaken by the 1st petitioner – Rajeev Health and Educational Society.

Learned counsel for the petitioners submitted that the wholesale embargo imposed by the Election Commission on the developmental works which were in progress at

the time of commencement of the election for the Visakhapatnam-1 Assembly Constituency is totally unwarranted, arbitrary and unjustified. According to him, the directions given by the Election Commission of India have proved to be gravely injurious to public interest and therefore, the Court should annul the impugned communications.

In our opinion, there is neither any warrant nor any justification to entertain the petitioners' prayer because,

a. the petitioners have not produced the constitution of the society to show that bye-laws framed by it authorizes filing of litigation in the Court, which does not have any direct nexus with the activities of the society;

b. the resolution, if any, passed by the governing body/executive council of the society authorizing Sri A.Venkat Rao to file petition in the name of society has not been placed on record;

c. no explanation worthwhile has been given as to why the petitioners did not seek intervention of the Court immediately after issuance of communication dated 12.1.2006 or 28.2.2006.

The very fact that the petitioners have invoked the jurisdiction of this Court less than two weeks before the schedule date of poll is indicative of the fact that this writ petition has not been filed with bona fide intention. Rather, in the garb of public interest litigation, the petitioners have invoked jurisdiction of this Court only for the sake of publicity. Such self-styled champions of public interest waste lot of time of the Court, which can appropriately be utilized for dealing with other substantive cases.

For the reasons stated above, the writ petition is dismissed with costs of Rs.10,000/-. The petitioners are directed to deposit costs with the Andhra Pradesh Legal Services Authority within a period of one month from today. The Secretary, Andhra Pradesh Legal Services Authority should inform the court in writing whether or not the petitioners have deposited the costs so that if any such contingency arises,

directions can be given for recovery of the amount of costs.

G.S.SINGHVI, CJ

Dt.20/4/2006

G.BHAVANI PRASAD, J

Msv/svs